

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF
AMERICA,

Plaintiff,

Case No. 2:08-cv-14151
Chief Judge Gerald E. Rosen
Magistrate Judge Anthony P. Patti

v.

GENE MARTIN,

Defendant.

ORDER DENYING DEFENDANT’S REQUEST FOR HEARING (DE 28)
and CANCELLING HEARING NOTICED FOR NOVEMBER 18, 2015 (DE
32)

The government filed this student loan recovery case on September 27, 2008. (DE 1.) It was terminated on February 10, 2009, when the Clerk of the Court entered default and judgment by default. (DEs 6, 7.)

Recently, on September 25, 2015, the government filed an application for a writ of continuing garnishment as to garnishee Bank of America. (DE 24.) The Clerk of the Court issued a writ of continuing garnishment that same day. (DE 26.) On October 19, 2015, Bank of America’s answer was filed, indicating that Defendant had no accounts. (DE 27.)

Currently before the Court is Defendant’s October 23, 2015 request for hearing, wherein he states: “I never had an accou[n]t with the Bank of America[.]” (DE 28.) The government filed a response, noting that “all parties

are in agreement that Defendant does not maintain any account at Bank of America, and therefore no funds are at issue” (DE 29 at 2.)

Defendant’s request was referred to me, and I therefore noticed a hearing for November 18, 2015. (DEs 29, 31, 32.) However, upon consideration, Defendant’s request for hearing (DE 28) is DENIED and the notice to appear (DE 32) is RESCINDED. This is so, because the aforementioned representations in Garnishee Bank of America’s answer (DE 27), Defendant’s request (DE 28), and the government’s response (DE 29) obviate the need for a hearing on the issue of whether the government should be entitled to garnish any funds held by Bank of America in Defendant’s name. There appear to be no such funds to garnish and no issues in dispute with respect to the garnishment, any such issues having been mooted by Bank of America’s response thereto.

IT IS SO ORDERED.

Dated: November 18, 2015

s/Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on November 18, 2015, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti